

UNITED STATES OF AMERICA)	
)	
v.)	ORDER
)	
JAMES MARLON PANTHER,)	
)	
Defendant.)	
)	

On February 4, 2020, a Bill of Indictment was filed charging Defendant with one count of manslaughter in violation of 18 U.S.C. §§ 1112 and 1153 and one count of assault resulting in serious bodily injury in violation of 18 U.S.C. §§ 113(a)(6) and 1153. (Doc. 1).

Defendant's initial appearance was held on February 12, 2020 before the undersigned. After Defendant was advised of his right to counsel, the duty attorney from the Federal Defender's Office, who appeared with Defendant during that proceeding, informed the Court that attorney Frank Lay had represented Defendant on related charges filed by the Eastern Band of Cherokee Indians but that it was not known if Mr. Lay would be representing Defendant on the current federal charges, particularly as Mr. Lay was recovering from a recent medical procedure. Consequently, Defendant moved for the appointment of counsel and that request was allowed. Defendant's

arraignment and a hearing on the Government's motion for pretrial detention were then scheduled for February 14, 2020.

It appears that the Federal Defender's Office did not assign an attorney to Defendant's case at that time, however, as that office may have understood Mr. Lay had been retained to represent Defendant.

On February 14, 2020, the case came back before the Court for the scheduled arraignment and detention hearings. Mr. Lay did not appear but advised the Clerk's office that while he had been unable to confirm his representation of Defendant, he anticipated being retained and intended to meet with Defendant on Tuesday, February 18 or Wednesday, February 19 and would immediately file a formal notice of appearance if Defendant confirmed his representation. Consequently, the Court did not undertake arraignment or detention hearings on February 14, 2020 and continued those matters for one week until Friday, February 21, 2020. Defendant, through the duty attorney of the Federal Defender's Office, indicated that he waived any applicable time limits in relation to that continuance.

As of Thursday, February 20, 2020, no notice of appearance had been filed by any counsel on behalf of Defendant. In addition, the undersigned understands that Mr. Lay has informed the Clerk's office that he has not yet been able to meet with Defendant, though he hopes to do so on Friday, February 21.

Due to inclement weather, the arraignment and detention hearings that had been scheduled for Friday, February 21, 2020 have been rescheduled for Monday, February 24, 2020.

While mindful of Mr. Lay's recent medical procedure, the undersigned finds that the uncertainty regarding the representation of Defendant must be removed promptly so that this matter can proceed.

Accordingly, pursuant to the Court's previous order appointing counsel, the Federal Defender's Office is respectfully **DIRECTED** to assign counsel for Defendant forthwith.

It is so ordered.

Signed: February 20, 2020

A handwritten signature in black ink, reading "W. Carleton Metcalf", written over a horizontal line.

W. Carleton Metcalf
United States Magistrate Judge

